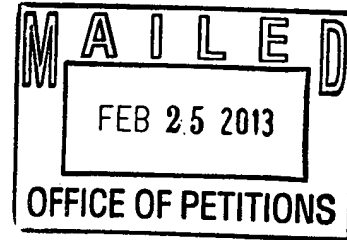




UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**WOODCOCK WASHBURN LLP
CIRA CENTRE, 12TH FLOOR
2929 ARCH STREET
PHILADELPHIA PA 19104-2891**



In re Patent No. 6,482,950
Issue Date: November 19, 2002
Application No. 08/479,077
Filed: June 6, 1995
Inventors: Garcia, et al.

:
:
: DECISION ON PETITION
:
:

This is a decision on the petition under 37 CFR 1.182, filed October 30, 2012, to re-record an assignment document.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within SIX (6) MONTHS from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.182." This is not a final agency action.

BACKGROUND

On January 31, 2007, a document totaling 389 pages was submitted to the Office for recordation as an assignment. This document was recorded at reel 019077 and frame 0001. The document submitted for recording was directed to numerous patents and patent applications. The page count listed on the cover sheet of the document, 389 pages, matches the page count of the document recorded. A blank page appears at frame 0218 of this document.

THE PETITION

The parent petition indicates that two (2) pages in the document recorded at Reel 019077 and Frame 0001 are omitted or are otherwise incorrect. Specifically, the parent petition alleges that a signature page that includes the signatures of Mark S. Stickel, president of Primary PDC, Inc., Thomas L. Beaudoin, COO/CFO of Polaroid Corp., and Brian M. Smith, Notary Public, is missing from the recorded document and should appear at frame 0009. The parent petition also alleges that the blank page that appears at frame 0218 of the recorded document was not part of the originally filed document. The parent petition further alleges that the omitted and incorrect pages resulted from Office error, and the parent petition requests that the document be re-recorded in its entirety at Office expense. The decision on the parent petition, mailed May 25, 2012, stated:

“Any renewed petition should include a showing that the Office received the document petitioner wishes to be re-recorded rather than the document that was actually recorded. Such a showing can be made by presenting evidence of a proper Express Mail submission of the assignment document to be re-recorded with the USPS under 37 CFR 1.10 or a postcard receipt, or other receipt, affidavit or other sufficient evidence that properly identifies the assignment document and provides *prima facie* evidence that the assignment document to be re-recorded was filed. Evidence of a proper Express Mail submission includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label, or a copy of any other official notation by the USPS relied upon to show evidence of the deposit.”

The renewed petition presents a copy of an Express Mail mailing label addressed to Assignment Recordation Services of the USPTO and accepted January 31, 2007. The evidence of the Express Mail submission does not include a copy of the originally deposited paper(s) that constitute the correspondence showing the number of the Express Mail mailing label thereon. Rather, the “Express Mail” mailing label is accompanied by an Affidavit of Robert Chang, signed October 30, 2012, explaining the preparation and mailing of the assignment submitted on January 31, 2007.

DECISION

The renewed petition does not present a proper showing that the USPTO received the document petitioner wishes to be re-recorded rather than the document that was actually recorded. The evidence of record shows that something was deposited for recordation with the USPTO on January 31, 2007, but does not establish that the document currently recorded was not the document deposited. In particular, the showing does not include a copy of the originally deposited paper(s) that constitute the correspondence showing the number of the Express Mail mailing label thereon. Paper(s) presenting the number of the Express Mail mailing label show the content of the document submitted by Express Mail and are necessary evidence in establishing what was submitted by Express Mail. This requirement is set forth in 37 CFR 1.10.

This requirement cannot be replaced by an affidavit, such as was attempted in the renewed petition, since the affidavit was created after the deposit of the paper(s) as Express Mail. Similar to the standards discussed in MPEP § 513, evidence of the Express Mail submission must not include evidence that was created more than one business day after the deposit of the correspondence as Express Mail. Therefore, the Affidavit of Robert Chang does not provide evidence of the papers deposited as Express Mail. However, a notation in a log book or the like, entered after deposit by the person who deposited the correspondence as Express Mail within one business day of the deposit, would serve as adequate support of the papers deposited as Express Mail.

Absent evidence of Office error, the Office will not re-record the document as requested. Similar to the policy set forth in 77 Fed. Reg. 3745 (Jan. 25, 2012) for the Establishment of a One-Year Retention Period for Patent-Related Papers That Have Been Scanned Into the Image File Wrapper System or the Supplemental Complex Repository for Examiners, the records for this assignment document are presumed to be accurate. However, that presumption can be rebutted with evidence that is sufficient to overcome the presumption. See 77 Fed. Reg. 3745, at 3747. A general allegation that a paper requires correction filed without evidentiary support is not a *bona fide* request.

Any renewed petition should include a showing that the Office received the document petitioner wishes to be re-recorded rather than the document that was actually recorded. Such a showing can be made by presenting evidence of a proper Express Mail submission of the assignment document to be re-recorded with the USPS under 37 CFR 1.10 or other sufficient evidence that properly identifies the assignment document and provides *prima facie* evidence that the assignment document to be re-recorded was filed. The evidence, if available, must be submitted within six months from the mail date of this decision

Telephone inquiries concerning this communication should be directed to Petitions Examiner Christopher Bottorff at (571) 272-6692.



Anthony Knight
Director
Office of Petitions

cc: Blayne D. Green
Omikron IP Law Group
16325 Boones Ferry Rd., Suite 204
Lake Oswego, OR 97035